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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,433	01/10/2002	Gopinath Baddepudi		6956
7590	11/12/2004			
			EXAMINER	
			PETERSON, KENNETH E	
			ART UNIT	PAPER NUMBER
			3724	
DATE MAILED: 11/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/042,433	BADDEPUDI, GOPINATH
	Examiner	Art Unit
	Kenneth E Peterson	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 11-15 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 11, 14 and 15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 August 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 12 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 14 August 04.

2. Most, if not all, of the amendments filed in this case are objected to under 35 U.S.C. 132 because they introduce new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. At this juncture, the specification, drawings and claims have been modified so much that they are considered to be new matter *in their entirety*.

If Applicant persists with this application, he is required to remove the new matter in the reply to this Office Action and resubmit the specification, drawings and claims with only subject matter that was present when the case was filed on 10 January 02.

3. Claims 11,14,15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, as set forth above, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

4. The specification and all of the claims are objected to for grammatical errors and lack of antecedent basis. For example in claim 11, "location of vegetables close to fulcrum of cutting means" should be –a location of said vegetables being close to a

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fulcrum of said cutting means--. There are numerous additional problems of a similar nature, but Examiner will not delve into them since the entire case will have to be re-written (if Applicant persists) due to the new matter problem noted above.

5. Claims 11,14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, the phrase "said vegetable space having structural support to stop vegetable sliding" is indefinite. It is not clear what structure is being referred to.

In claim 14, the phrase "handles connected in a manner to facilitate combination of the outer four knives as one unit and the middle two knives as another unit" is of indefinite bounds. Claim 15 has a similar phrase. It is not clear what 6-knife arrangements would or would not read on this. One could argue that 6 knives locked together for rotation would meet this recitation, since only 2 of the blades would contact a small vegetable.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by

Lewandowski, who shows spaced guides (15) having anti-sliding features (16).

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8. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by McGlaughlin, who shows spaced guides (7) having anti-sliding features (boxes workpiece in).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 11,14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewandowski in view of McGlaughlin.

Lewandowski, as set forth above, shows a cutter with most of the recited limitations, including 6 knives that can be arbitrarily divided into a 4 knife group and a two knife group.

Lewandowski lacks a rectangular guide frame. However, McLaughlin shows that this is well known (7). It would have been obvious to one of ordinary skill in the art to have provided Lewandowski with a rectangular guide frame, as taught by McGlaughlin, in order to positively confine the workpiece.

In regards to the recitations of screws, spacers and washers for holding the device together, Examiner takes Official Notice that such things are common. It would have been obvious to one of ordinary skill in the art to have modified Lewandowski by

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using screws, spacers and washers, as is well known, in order to fix and space the knives and guides.

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Worth noting is that Applicant's year-late drawings (filed 12 feb 03) and accompanying excuse seem to have been accepted by the office of Pre-exam.

Made of record but not relied on is a patent to Funke, nee Honsel, showing a pertinent cutter.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 703-308-2186. Effective on about 16 November 04, the phone number will change to 571-272-4512. The examiner can normally be reached on Monday thru Thursday between 7am and 4pm.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp
November 9, 2004


KENNETH E. PETERSON
PRIMARY EXAMINER